



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
One Blackburn Drive  
Gloucester, MA 01930-2298

February 27, 2004

## SMALL ENTITY COMPLIANCE GUIDE

Dear Permit Holder:

This letter is to notify you that the National Marine Fisheries Service has established emergency measures under the Atlantic Sea Scallop Fishery Management Plan (FMP) for the 2004 fishing year. Measures implemented through the emergency action and described in this letter are effective beginning on March 1, 2004. This letter is only a summary of regulatory provisions implementing the emergency action and is not a substitute for the actual regulations.

### **1. DAYS-AT-SEA (DAS) ALLOCATIONS FOR FISHING YEAR 2004**

The following DAS allocations are scheduled for the 2004 fishing year (March 1, 2004 - February 28, 2005) for the respective limited access scallop permitted vessels:

- < Full-time vessels: 34 DAS
- < Part-time vessels: 14 DAS
- < Occasional vessels: 3 DAS

Additional trips and DAS have been allocated for use only within the Hudson Canyon Sea Scallop Access Area (Hudson Canyon Access Area) described below.

- < Full-time vessels are restricted to a total of four trips into the Hudson Canyon Access Area.
- < Vessels permitted in the Part-time and Occasional scallop permit categories are allocated only one trip into the Hudson Canyon Access Area.
- < All trips will be equal to 12 DAS, regardless of actual trip length.

### **2. SEA SCALLOP AREA ACCESS PROGRAM FOR FISHING YEAR 2003**

The emergency action includes a modification to the area access program for the Hudson Canyon Access Area. The boundaries of the area are unchanged, and are defined by straight lines connecting the following points in the order stated:

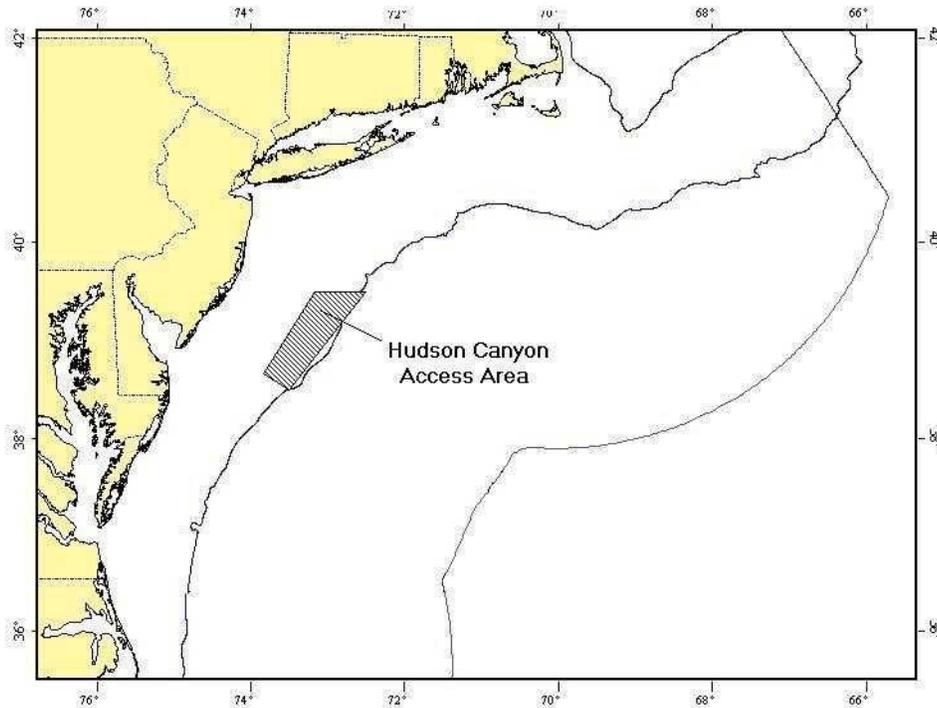


## Hudson Canyon Access Area

Point	Latitude	Longitude
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H1.....	39°30' N.	73°10' W.
H2.....	39°30' N.	72°30' W.
H3.....	38°30' N.	73°30' W.
H4.....	38°40' N.	73°50' W.

Hudson Canyon Access Area



For fishing year 2004 limited access scallop vessels may fish for scallops in the Hudson Canyon Sea Scallop Access Area when fishing under a scallop DAS provided the vessel complies with the requirements specified below:

### Vessel Monitoring System (VMS)

All participating vessels must have installed on board an operational VMS unit.

**Declaration - Failure to comply with all of the following declaration procedures will prohibit vessels from participating in the Hudson Canyon Area Access Program. Please thoroughly read the following requirements:**

- < A vessel issued a valid limited access scallop permit and planning to fish in the Area Access Program must submit a report through the VMS e-mail messaging system (**NEC.Observers@noaa.gov**) of its intention to fish in the Hudson Canyon Access Area prior to the 25<sup>th</sup> of the month before the month in which the anticipated trip(s) are to be taken. The report must include the following information: Vessel name and permit number; owner and operator's names; owner and operator's phone numbers; and number of trips the vessel intends to fish. **This requirement is waived for trips to be taken in March only.** Vessel owners are requested to submit this information as soon as possible if they intend to fish in the Area Access Program during March.

- < In addition to the above advance notice for accessing the Hudson Canyon Sea Scallop Access Area, for the purpose of randomly selecting vessels to carry an observer, a vessel must also submit a report through the VMS e-mail messaging system (**NEC.Observers@noaa.gov**) of its intention to fish in the Area Access Program at least **5 working days** (Saturday, Sunday, and Federal holidays are not considered working days) prior to the date it intends to depart on each trip into a Sea Scallop Access Area. For each of these reports, vessels must submit the following information: Vessel name and permit number; owner and operator's names; owner and operator's phone numbers; date and time of departure; and port of departure. **For trips to be taken prior to March 15, 2004, the 5-day requirement is waived and vessels must submit this notification as soon as possible, but at least one day prior to the beginning of the trip.**
  
- < **A vessel which does not have a valid Coast Guard Inspection Sticker is deemed inadequate or unsafe for purposes of carrying a NMFS approved observer. Any vessel that has been chosen to carry an observer may be prohibited from participating in the Area Access Program until the vessel is inspected by the Coast Guard and receives its inspection sticker.**
  
- < On the day that the vessel leaves port to fish under the Area Access Program, the vessel owner or operator must declare the vessel into the Area Access Program through the VMS prior to leaving port.

Instructions for declaring into the Area Access Program through VMS are available from the Northeast Regional Office upon request.

### **Number of Trips and DAS Accrual**

All participating vessels are restricted to the number of trips and DAS accrual specified previously in this letter.

### **Possession Limits**

A vessel declared into the Area Access Program may possess and land **up to 18,000 lb per trip** of scallops, of which no more than 50 bushels may consist of in-shell scallops:

The sea scallop possession limit for a vessel that has declared a fishing trip into the Area Access Program and has a NMFS-approved observer on board is increased by 300 lb of scallop meats per day the vessel is actually gone from port for more than 6 hours to help defray the costs of the observer. The vessel owner will be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip. A letter containing observer protocol, including instructions on how to receive an increased trip limit to help pay for an observer, is attached.

A vessel declared into the Area Access Program must adhere to all current possession, trip, and landing limits for species other than scallops.

### **Reporting**

A vessel must submit reports through the VMS for each day fished when declared in the Area Access Program. Reports for each fishing day **must be submitted no later than 0900** hours the following day. A fishing day is defined as beginning at 0000 hours and ending at 2400 hours. For example: A vessel fishing for scallops between 5:00 am and 9:00 pm Tuesday must submit a

report for this day (Tuesday) by 9:00 am the following day (Wednesday). A tow that is in the water at midnight should be counted toward the next day's catch. Each daily report must include the following information:

- < Total pounds of scallop meats kept,
- < Log book page number, and
- < For each trip that the vessel has a NMFS-approved observer on board, a separate report of total pounds of scallop meats kept and log book page number for each tow that is observed by a NMFS-approved observer.

**In the event a vessel operator or observer misses a reporting day, 2 days of data may not be grouped into a single report. If a day is missed, two separate reports must be filed back to back, with the first report being the day that was missed. Missing a reporting requirement, however, may be considered a violation of the regulations.**

Instructions on how to fill out these reports using VMS is available from the Northeast Regional Office upon request.

### **VMS Polling**

To aid enforcement, for the duration of the Area Access Program, all limited access scallop vessels equipped with a VMS unit will be polled twice per hour at the vessel's expense, regardless of whether the vessel is enrolled in the Area Access Program.

### **Gear Restrictions**

All vessels declared into the Area Access Program must fish with or possess scallop dredge or trawl gear in accordance with current scallop dredge or trawl gear restrictions, except that the mesh size of net material on the top of a scallop dredge in use by or in possession of a vessel declared into the Area Access Program may not be smaller than 10.0 inches square or diamond mesh.

### **Transiting**

When transiting to and from the Sea Scallop Access Areas, all gear on board must be properly stowed and not available for immediate use in accordance with the regulations (specified in § 648.23(b)).

Limited access sea scallop vessels intending to fish for scallops under a scallop DAS that have not declared a trip into the Area Access Program may not enter, fish, or be in the Hudson Canyon Access Area unless the vessel is transiting the areas with all fishing gear stowed and not available for immediate use as required in the regulations.

### **Offloading**

Vessels may not off-load their sea scallop catch at more than one location per fishing trip.

## **3. SEA SCALLOP POSSESSION LIMIT FOR GENERAL CATEGORY VESSELS AND LIMITED ACCESS SCALLOP VESSELS NOT FISHING UNDER A SCALLOP DAS**

General Category scallop vessels and limited access scallop vessels not fishing under the scallop DAS program (and, therefore, under the General Category provisions) may possess or land per

trip up to 400 lb of shucked scallops or 50 U.S. bushels of in-shell scallops in or from the Hudson Canyon Access Area.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is stylized with a large initial "P" and a prominent "K".

Patricia A. Kurkul  
Regional Administrator

This Small Entity Compliance Guide complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996.

NOTICE: Important information regarding sea turtle resuscitation techniques and other information relevant to interactions between the scallop fishery and sea turtles will be mailed under separate cover.

## **SEA SCALLOP 2003 AREA ACCESS PROGRAM POSSESSION LIMIT INCREASE AND OBSERVER PROTOCOL**

The following outlines the sea scallop possession limit increase and protocol for observer payment for vessels declared and accepted into the Sea Scallop Area Access Program (Area Access Program) and carrying a NMFS approved observer on board.

### **POSSESSION LIMIT INCREASE:**

Vessels selected to carry an observer while participating in the Area Access Program are authorized to possess and to land an additional 300 lb of scallop meats for each day the vessel is gone from port for 6 or more hours. This extra poundage, above and beyond the 18,000-lb scallop possession limit allowed for all non-observed Area Access Program trips, is to be used to reimburse the cost of the observer program, as well as to compensate the vessel and its crew. For example, a vessel that has declared and been accepted into the Area Access Program during the 2003 fishing year and selected to carry an observer for that trip, and which is gone from port for 5 days, starting from the time the vessel left port, would be authorized to possess and land up to 19,500 lb of scallop meats for that trip (18,000-lb trip limit + 1,500 lb for the 5 observer days). If this same vessel was gone from port for 5 days and 6 hours (5¼ days), it would be allowed to possess and land up to 19,800 lb of scallop meats.

### **PAY DISTRIBUTION:**

Vessels selected to carry an observer while participating in the Area Access Program are required to pay **\$707.00** per day for the observer coverage. The increase in the cost per day for observer coverage from last year's program reflects changes in the main contract for observer coverage, which was reissued in 2002. Using the 5¼ day Area Access Program trip example from above and an average scallop price of \$3.35 per pound, 300 lb x 6 days (or 1,800 lb), would yield a total of \$6,030.00 (1,800 lb x \$3.35 per lb). A vessel that declared into the Area Access Program for 5¼ days while carrying an observer on board would be allowed to possess up to 19,800 lb of scallop meats, and would be required to compensate the observer \$4,242.00 (\$707.00 x 6 days). The remaining money, in this case \$1,788 (1,800 lb x \$3.35 = \$6,030 - \$4,242.00), would belong to the vessel and crew.

### **OBSERVER PAYMENT:**

Bank or cashier checks for the cost of the observer must be made out to A.I.S., Incorporated, and must be received within 1 week of the date the scallops are landed, unless the vessel receives other instructions in writing from NMFS. Please mail your check, along with a note containing the following information: "Sea Scallop Observer Fund," vessel name, permit number, owner or operator name, time and date of departure, and time and date of return, to:

**A.I.S., Incorporated  
Attn: Arvidas Poshkus  
P.O. Box 2093  
New Bedford, MA 02741-2093**